**THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA**

**WRIT PETITION NO.8686 of 1998**

**DATED: 21-02-2007**

**Between:-**

S.K. Raghavachary

.. Petitioner

and

District Collector, Warangal and others.

.. Respondents

**THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA**

**WRIT PETITION NO.8686 of 1998**

**ORDER:**

This writ petition is filed seeking a mandamus to declare the action of the respondents in not paying the compensation amount of Rs.2,94,000/- together with solatium and interest @ 12% covered by the award in respect of Acs.6-00 gts. of land forming part of Sy.No.109/A of Pasaranagaram village, Govindaraopet Mandal, Warangal District, as arbitrary and illegal.

The brief facts of the case are that the petitioner is the owner of an extent of Acs.40-00 gts. of land situated in Pasaranagaram village, Govindaraopet village, Warangal District. While so, the Government issued notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act'), proposing to acquire an extent of Acs.6-00 gts. from the said land for the purpose of providing house sites to weaker sections and the same was published on 23.04.1995. Thereafter, a draft declaration was also published on 25.05.1995. According to the petitioner, the Land Acquisition Officer, invoking the urgency clause under Section 17 (4) of the Act, acquired his land. Thereafter, an award was passed on 28.08.1996 fixing certain amount as compensation. However, the petitioner was invited by the Negotiations Committee and, during the course of negotiations, both the parties arrived at a figure of Rs.2,94,000/- as compensation for the acquisition of the land in question. In spite of the fact that the land was acquired and award was passed fixing the compensation, the respondents have not paid the compensation amount.

The respondents have filed counter-affidavit admitting the notification and draft declaration, but they have clearly denied the allegation of taking possession of the land in question. According to the respondents, the petitioner continued to be in possession of the land, and, though preliminary enquiry was conducted and preliminary valuation was assessed, no award was passed by the Land Acquisition Officer. Subsequently, as the land was not required, and in view of the amended provisions, the acquisition proceedings got lapsed. Since the possession was not taken within a period of two years, a notification under Section 48 (1) of the Act, withdrawing the acquisition, was published on 01.03.1997.

In the light of the above controversy, this Court directed the Government Pleader to produce the record and accordingly the record is produced.

Having heard the learned counsel for both the parties and perused the record, this Court is of the view that the contention of the learned counsel for the petitioner that possession of the land in question was taken cannot be accepted. In fact, the petitioner himself addressed a letter on 20.01.1996, which was received by the respondents on 22.01.1996, wherein he clearly stated as under:-

> *"Therefore, my submission is that the compensation amount to be decided* ***for my land to be acquired*** *cannot greatly vary from that market value of the land acquired on the southern side of Eturunagaram Highway."*

From the above, it can definitely be held that possession of the land in question was not taken. If really, possession was taken as contended by the learned counsel for the petitioner, the wording would

have been different and the petitioner would not have stated as "***my land to be acquired***". From the letter addressed by the petitioner himself, it is clear that he is in continuous possession of the land.

Another contention put forth by the learned counsel for the petitioner is that the Land Acquisition Officer passed an award fixing the amount of compensation at Rs.2,94,000/-. No doubt, it is true from the record that the Land Acquisition Officer arrived at a figure of Rs,3,78,300/-, but that is only a preliminary valuation statement of the lands coming under acquisition and it cannot be said that it is an award passed under Section 11 of the Act. Simply because the Land Acquisition Officer had fixed the valuation, it cannot be said that there was an award and the said amount was fixed as compensation in the award enquiry. Hence, the contention of the learned counsel that an award was passed by the Land Acquisition Officer on 28.08.1996 is not correct and the same is only a preliminary valuation statement of the lands, made on the same day.

No doubt, it is true that the lands of the petitioner were proposed to be acquired, but as there were certain objections, a re-survey was conducted and thereafter the Revenue Divisional Officer addressed a letter to the Collector i.e. the Land Acquisition Officer on 01.03.1997 requesting him to withdraw the proposal and, accordingly, notification under Section 48 (1) of the Act withdrawing the proposal of acquisition was published.

Of course, the learned counsel for the petitioner strenuously contended that the withdrawal of proposal is only for an extent of Acs. 4-06 cents and for the remaining Acs. 1-94 cents, there is no withdrawal and, hence, he is entitled to compensation insofar as the remaining extent is concerned. But, the learned Government Pleader

opposed this contention stating that subsequent to these proceedings, the Government did not initiate any proceedings even with regard to the remaining land of Acres 1-94 cents. Having regard to the fact that since possession was not taken within a period of two years, as per the amended provisions of the Act, the entire proceedings initiated under the Land Acquisition Act got lapsed, this Court is of the view that Section 4 (1) notification even with regard to the extent of Acres 1-94 cents of land must have got lapsed. Hence, I find no force in the contention of the learned counsel for the petitioner.

In the light of the above discussion, the writ petition is dismissed. There shall be no order as to costs.

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**GOPALA KRISHNA TAMADA, J**

21st February, 2007
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